

activation time period being set by a user; and wherein the control member prevents operation of said equipment by preventing power to transfer from said power source to the driver member without transmission of a user code, the user code enabling power to flow from the power source to the activation member to the driver member, thereby activating said equipment for said programmable activation time period and deactivating said equipment upon expiration of said programmable activation time period" that these missing features are found in '586 patent.

The intent of the '780 patent is to assist the retailer, or lessor, of equipment in receiving on time payments from the user purchasing the equipment. The equipment sold under the teachings of the '780 patent has a series of codes embedded into the microprocessor, each of the codes having an "activation" time period. As each time period expires, the user must obtain the next code in the series to reactivate the equipment for the next time period. If payment has not been made, the retailer does not provide the code, thereby disabling the equipment until the payment is received. This cycle continues until the loan or lease period has expired, after which time the timing system is shut down. Both the activation time periods and the number of cycles that must be completed prior to the system being shut down are out of the user's control and dependent upon the agreement with the seller.

In order to provide the same basic concept as the instant application, including a user predetermined access code and a programmable activation time period, the patentable features of the '780 patent around which the patent is based, must be removed. There would be no desire, teaching or need to remove the lessor controlled access code and time periods and elimination of

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the time codes after a predetermined number, from the '780 patent, as these features are directed to the intent of the '780 patent. By eliminating the foregoing features, the '780 patent could no longer fulfill its intent. Thus, the '780 patent teaches away from the present invention.

The '586 patent relates to a system for controlling the access to electrically operated equipment. In this patent, equipment is activated and/or deactivated, through the use of codes, however there is no mention of a user set operating time period. The Examiner states that the '586 reference to programmable activation time period is taught in Col. 1, lines 12 – 18 and Col. 3, lines 54 – 62.

Col. 1, lines 12 – 18 of the '586 patent teaches that the system prevents unauthorized turning on or off of equipment, depending upon mode. There is no teaching of activating the power for a predetermined period of time after which the power is deactivated. The teachings of the '586 patent are directed to preventing someone from turning off electrical equipment that should be left on (Col. 1 lines 16 - 18) or turning on electrical equipment that should be left off (Col. 1, lines 13 – 15). There is no reference in these lines to determining how long a piece of electronic equipment should be activated and programming that time frame into the equipment as part of the security procedures.

In Col. 3, lines 54 – 62, of the '586 patent a Dwell Timer is taught. The Dwell Time measures the time between entry of the correct access code and commencement of operation of the equipment. When the equipment is not operated within the preprogrammed time period, the Dwell Timer removes the access code from the system and requires re-entry of the access code

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prior to machine activation. Therefore, if a user enters a code and does not immediately activate the equipment, the code will need reentry when ready to activate the equipment.

Although the '586 system could be beneficial for large pieces of equipment that remain constantly activated for long periods of time, this would not be efficient for most consumer applications. For example, a parent could not program a VCR in the morning for use by a child later that day using the system as taught in the '586 patent. Nor could someone use the '586 system to program a power drill and then have the option of using the drill either continuously or intermittently for the user determined period of time without re-entering the codes. The instant system is also advantageous for use on cameras, enabling the user to take pictures at will while still protecting the camera against theft. The Dwell Time code taught by the '586 patent does not have the same purpose as that taught in the instant application.

Nor would there be any logic in extending the Dwell Time to a longer time period since once the power is activated and deactivated, re-entry of the code is still required to reactivate the equipment. At Col.5, lines 6 –12 the issue of an additional dwell time is discussed that enables the user to, within that dwell time, reactivate the equipment. This issue is again discussed in Col. 6, lines 49 – 59 wherein it is taught how to overcome the problems associated with the brake time required vs. the dwell time.

To extend either of the dwell times would be against the teachings of the '586 patent as it would provide the same accessing situation that the '586 system is resolving.

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The Examiner has said that it would be obvious to combine the two patents and that the result would be the same as the pending application.

Obviousness is tested by "what the combined teachings of the references would have suggested to those of ordinary skill in the art." In re Keller, 642 F.2d 413, 425, 208 USPQ 871, 881 (CCPA 1981). But it "cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching or suggestion supporting the combination." ACS Hosp. Sys., 732 F.2d at 1577, 221 USPQ at 933. And "teachings of references can be combined only if there is some suggestion or incentive to do so." Id. Here, the prior art contains none. In re David H. Fine, 837 F.2d 1071, 1075; (CAFC 1988)

In the disclosed case, not only is there "no incentive" to combine the references, but in order to combine the two references, to achieve the instant device would require the abandonment of the intent of the two references. The '780 teaches the incorporation of a series of codes, unknown to the user, each existing for a predetermined period of time, with the entire series deactivating after a second predetermined period of time. The '586 patent teaches entering a code to enable power to access the motor, which in turn must be activated within a predetermined period of time. Lack of activation within that period of time negates the code entry and the code must be again entered. To combine the references in an allowable manner, the intent of at least one reference must exist. However to achieve the instant system, the intent of both cited references must be eliminated.

Dependent Claims 20 – 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Norris et al and Baum et al, and in further view of Siegle et al (US 6,005,489). The Examiner states that the '489 patent teaches an independent, self contained, portable remote that, when read on independent Claim 19, meets the teachings of the instant claims. It is respectfully submitted

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that, as stated heretofore, the combination of the Norris et al and Baum et al patents does not produce the pending device. Dependent Claims 20 is not claiming the concept of a remote, but rather is claiming a remote to be used in conjunction with the patentable system as set forth in independent Claim 19.

With respect to dependent Claims 21 and 22, these are again claims that are dependent upon independent Claim 19. As stated theretofore, Claim 19 is believed to be in allowable condition and Claims 21 and 22 are limitations upon that allowable claim. It is submitted that applicant is not attempting to patent the concept of a scanning touch key (Claim 21) or the fact that the remote can activate several pieces of equipment. Applicant is, rather, seeking protection on these features in combination with the unique system of Claim 19.

The following claim language is contained in the pending independent Claims 23 that is not found in the cited patents or a combination thereof:

a user determined programmable activation time period ...

Neither of the cited references have an activation time period that is determined by the user. In the '780 patent the activation time is based upon a set, predetermined time period that is established by the lessor. In the '586 patent, the dwell time is automatic and predetermined at the time of manufacture or based upon an administration setting (the patent is not clear on how this is set. This is not a time period that is set by the user after entering the access code.

to permit both continuous and intermittent operation ..

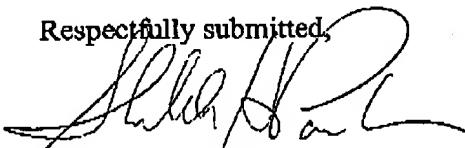
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In the '586 patent once the access code is enter and the power activated, the power must remain on or the access code must be re-entered.

In view of the foregoing Claim amendments and Remarks it is respectfully submitted that the application is in condition for allowance and an early Notice of Allowance is respectfully requested.

Respectfully submitted,



Sheldon H. Parker
Reg. No. 20738

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Parker & DeStefano
300 Preston Avenue
Suite 300
Charlottesville, Va. 22902
(434) 817-6606
FAX 817-6610
Email info@shparker.com

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